

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

HARLEY L. BREER, JR.,	:
Plaintiff,	:
	:
v.	: Docket No. 2:12-CV-53
	:
STEVE MARANVILLE, MICHELLE MEDOR	:
BRIAN REED, CHARLES CROSS,	:
JAMES HONSIGER, and STEVE GOLD	:
Defendants.	:

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed November 27, 2012. Plaintiff's objection was filed December 13, 2012.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

The defendants' motion to dismiss (Doc. 13) is GRANTED without prejudice. Plaintiff has already complied with the Magistrate Judge's order and a new complaint has been filed.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83 (8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal of this matter would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

Dated at Burlington, in the District of Vermont, this  
18th day of December, 2012

/s/ William K. Sessions III  
William K. Sessions III  
District Court Judge